

1 Clayton Cook-Mowery #41110
2 Advantage Legal Group
3 12207 NE 8th Street
4 Bellevue WA 98005

Hon. Judge Timothy W. Dore
Chapter 13

5
6 **UNITED STATES BANKRUPTCY COURT**
7 **WESTERN DISTRICT OF WASHINGTON**

8 In Re:

9
10 Julian FLORES

11 Debtor,

12
13 Julian FLORES

14 Plaintiff,

15 vs.

16 City National Bank

17 Defendant
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ADVERSARY COMPLAINT
SEEKING LIEN AVOIDANCE
OF WHOLLY UNSECURED
LIEN

Case No.: 11-20512

Adversary No. _____

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21 **ADVERSARY COMPLAINT SEEKING**
22 **LIEN AVOIDANCE OF WHOLLY UNSECURED LIEN**
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24 NOW COME, The Plaintiff, Julian Flores, by and through his attorney Clayton Cook-Mowery of
25 Advantage Legal Group, and for the purpose of this complaint alleges the following:

26 1. This adversary proceeding arises out of Plaintiff's Chapter 13 case now pending before this
27 Court. This Court has jurisdiction to consider the matters herein pursuant to 28 U.S.C. §§ 157 and
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ADVERSARY COMPLAINT SEEKING LIEN AVOIDANCE OF
WHOLLY UNSECURED LIEN - 1 of 3

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1 1334 and 11 U.S.C § 506 and 1322. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A),
2 (B), (K), and (O).

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4 2. Plaintiff is natural person living in Federal Way, King County, Washington.

5 3. Defendant City National Bank is a corporation licensed to do business, and actually doing
6 business within the State of Washington.

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8 4. Plaintiff is the owner of a parcel of real estate located in Seattle, King County, Washington: (1)
9 commonly described as 30414 1st Place South, Federal Way, WA 98003 (2) legally described as
10 Lot 26, Holiday Park No. 2, Vol. 68, page 75, located in Seattle, King County, Washington.

11 5. Prior to the filing of this bankruptcy case, Plaintiff allegedly executed a second lien in favor of
12 Defendant, or Defendant's predecessor, evidencing a loan by Defendant and recorded in the King
13 County, Washington real estate records.

14 6. On the date of filing of Plaintiffs' Chapter 13 Petition, September 1, 2011, Plaintiff was
15 allegedly indebted to Defendant or its successors and/or assigns under such instrument in the
16 approximate sum of \$43,923.00 for the second lien. See Schedule D.

17 7. On the date of filing of Plaintiffs' Chapter 13 Petition, the value of Plaintiffs' real property
18 described above was \$138,900.00, as stated in Schedule A of Plaintiffs'/Debtors' bankruptcy. On
19 that date, the debt owing to senior lienholder JPMorgan Chase, was approximately \$177,293.00.
20 See Schedule D. Total senior liens to Defendant totaled \$177,293.00.

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22 9. No equity in Plaintiffs' real property exists to which Defendant's lien can attach. Therefore,
23 pursuant 11 U.S.C. §§ 506 and 1322, and in re Zimmer, 313 F.3d 1220 (9th Cir. 2002), Plaintiff is
24 entitled to "strip off" the lien held by Defendant so that such lien becomes voided and no longer
25 remains a lien against Plaintiffs' real property.

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28 **PRAYER FOR RELIEF**

1 WHEREFORE, Plaintiff prays for a judgment and order voiding the Defendant's deed of trust,
2 adjudging that the note is no longer secured by the deed of trust against the above-described real
3 property unless this Chapter 13 case is later dismissed prior to discharge, and for such other and
4 further relief as this Court might deem just and equitable.

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7 Respectfully submitted this 28th day of December, 2011.

8 /s/ Clayton Cook-Mowery

9 Clayton Cook-Mowery, WSBA #41110

10 Attorney for Plaintiffs/Debtors
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